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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues  
13 Against:

14 **BROOKE ELISABETH LATIMER**  
1728 Vancouver Way  
Livermore, CA 94550

Case No. 2012-487

OAH No. 2012030012

**DEFAULT DECISION AND ORDER**

[Gov. Code, § 11520]

Respondent.

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16  
17 **FINDINGS OF FACT**

18 1. On or about February 23, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her  
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
20 Consumer Affairs, filed Statement of Issues No. 2012-487 against Brooke Elizabeth Latimer  
21 (Respondent) before the Board of Registered Nursing.

22 2. On or about July 8, 2011, Respondent filed an application dated July 6, 2011, with the  
23 Board of Registered Nursing to obtain a Registered Nurse License.

24 3. On or about September 15, 2011, the Board issued a letter denying Respondent's  
25 application for a Registered Nurse License. On or about September 26, 2011, Respondent  
26 appealed the Board's denial of her application and requested a hearing.

27 4. On or about February 29, 2012, Praveen Singh, an employee of the Department of  
28 Justice, served by Certified and First Class Mail a copy of the Statement of Issues No. 2012-487,

1 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code  
2 sections 11507.5, 11507.6, and 11507.7 to Respondent's address on the application form, which  
3 was and is 1728 Vancouver Way, Livermore, CA 94550. A copy of the Statement of Issues is  
4 attached as exhibit A, and is incorporated herein by reference.

5 5. Service of the Statement of Issues was effective as a matter of law under the  
6 provisions of Government Code section 11505, subdivision (c).

7 6. On or about September 26, 2011, Respondent appealed the denial of her application  
8 and requested a hearing in this action. A Notice of Hearing was served by mail at Respondent's  
9 address on the application and it informed her that an administrative hearing in this matter was  
10 scheduled for September 4, 2012. On September 3, 2012, Respondent withdrew her appeal and  
11 request for hearing.

12 7. Business and Professions Code section 118 states, in pertinent part:

13 (a) The withdrawal of an application for a license after it has been filed with a  
14 board in the department shall not, unless the board has consented in writing to such  
15 withdrawal, deprive the board of its authority to institute or continue a proceeding  
16 against the applicant for the denial of the license upon any ground provided by law or  
17 to enter an order denying the license upon any such ground.

18 8. Government Code section 11506 states, in pertinent part:

19 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
20 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
21 of the accusation not expressly admitted. Failure to file a notice of defense shall  
22 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
23 may nevertheless grant a hearing.

24 9. California Government Code section 11520 states, in pertinent part:

25 (a) If the respondent either fails to file a notice of defense or to appear at the  
26 hearing, the agency may take action based upon the respondent's express admissions  
27 or upon other evidence and affidavits may be used as evidence without any notice to  
28 respondent; and where the burden of proof is on the respondent to establish that the  
evidence on file herein, finds that the allegations, in Statement of Issues No. 2012-487 are true.

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**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues  
Against:

Case No. 2012-487

OAH No. 2012030012

**BROOKE ELISABETH LATIMER**

Respondent.

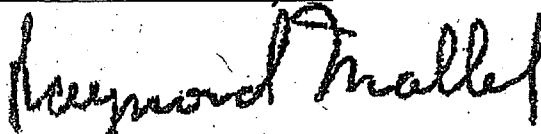
**DECISION AND ORDER**

IT IS SO ORDERED that the application for Registered Nurse License, filed by Respondent Brooke Elizabeth Latimer, is denied.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on January 11, 2013.

It is so ORDERED December 13, 2012.



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FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

Attachment:

Exhibit A: Statement of Issues No.2012-487

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Exhibit A

Statement of Issues No. 2012-487

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 ANAHITA S. CRAWFORD  
Deputy Attorney General  
4 State Bar No. 209545  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 322-8311  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. **2012-487**

13 **BROOKE ELISABETH LATIMER**  
1728 Vancouver Way  
Livermore, CA 94550

**STATEMENT OF ISSUES**

14 Respondent.

15  
16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely  
19 in her official capacity as the Interim Executive Officer of the Board of Registered Nursing  
20 ("Board"), Department of Consumer Affairs.

21 2. On or about July 8, 2011, the Board received an application for a registered nurse  
22 license from Brooke Elisabeth Latimer ("Respondent"). On or about July 6, 2011, Respondent  
23 certified under penalty of perjury to the truthfulness of all statements, answers, and  
24 representations in the application. The Board denied the application on September 15, 2011.

25 **STATUTORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2736 provides, in pertinent part, that  
27 the Board may deny a license when it finds that the applicant has committed any acts constituting  
28 grounds for denial of licensure under section 480 of that Code.

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4. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct . . .

....

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof . . .

5. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

....

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof . . .

6. Code section 2765 states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

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1 7. Code section 480 states, in pertinent part:

2 (a) A board may deny a license regulated by this code on the grounds that  
3 the applicant has one of the following:

4 (1) Been convicted of a crime. A conviction within the meaning of this  
5 section means a plea or verdict of guilty or a conviction following a plea of nolo  
6 contendere. Any action that a board is permitted to take following the establishment  
7 of a conviction may be taken when the time for appeal has elapsed, or the judgment  
8 of conviction has been affirmed on appeal, or when an order granting probation is  
9 made suspending the imposition of sentence, irrespective of a subsequent order under  
10 the provisions of Section 1203.4 of the Penal Code.

11 .....  
12 (3)(A) Done any act that if done by a licentiate of the business or  
13 profession in question, would be grounds for suspension or revocation of license.

14 (B) The board may deny a license pursuant to this subdivision only if the  
15 crime or act is substantially related to the qualifications, functions, or duties of the  
16 business or profession for which application is made . . .

17 **FIRST CAUSE FOR DENIAL**

18 **(Criminal Conviction)**

19 8. Respondent's application is subject to denial pursuant to Code sections 2736, 2761,  
20 subdivision (f), and 480, subdivisions (a)(1) and (a)(3)(A), in that on or about April 15, 2008, in  
21 the criminal proceeding titled *State of Oregon v. Brooke Elizabeth Latimer* (Deschutes County  
22 Circuit Ct., 2008, Case No. MI080669), Respondent pled guilty to driving under the influence of  
23 intoxicants, a misdemeanor, a crime substantially related to the qualifications, functions, and  
24 duties of a registered nurse. The circumstances of the crime are set forth in subparagraph 9 (b)  
25 below.

26 **SECOND CAUSE FOR DENIAL**

27 **(Use of Alcoholic Beverages to an Extent or in a Manner**

28 **Dangerous or Injurious to Oneself and the Public)**

9. Respondent's application is subject to denial pursuant to Code sections 2736, 2761,  
subdivision (a), 2762, subdivision (b), and 480, subdivision (a)(3)(A), in that she used or

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1 consumed alcoholic beverages to an extent or in a manner dangerous or injurious to herself,  
2 others, and the public, as follows:

3 a. On or about July 29, 2005, at approximately 2359 hours, an officer with the Bend  
4 Police Department ("PD") was dispatched to a vehicle crash at NW 3<sup>rd</sup> near Newport. The officer  
5 arrived on scene at 0004 hours on July 30, 2005, and noticed a minivan in the middle of the  
6 roadway. A couple of vehicles that were parked on the side of the roadway had been damaged,  
7 and the minivan was crashed into another vehicle that was legally parked on the east side of the  
8 road. The officer walked up to the minivan and made contact with the driver, Respondent. The  
9 officer observed that Respondent's eyes were bloodshot and watery. Respondent had difficulty  
10 pronouncing certain words, her movements were slow and uncoordinated, she had difficulty  
11 walking and balancing, and there was a strong odor of an alcoholic beverage on her breath.  
12 Respondent agreed to perform field sobriety tests, which she failed. The officer arrested  
13 Respondent for driving under the influence ("DUI") and placed her in his patrol car. Later,  
14 Respondent told the officer that she had consumed 6 beers and had been driving home from a  
15 friend's house when she crashed into the parked cars. Respondent was transported to the  
16 Deschutes County Jail where she submitted to a breath test. The breath test results showed that  
17 Respondent had a blood alcohol level of 0.22 percent.

18 b. On or about February 23, 2008<sup>1</sup>, an officer with the Bend PD received a call from  
19 dispatch, informing him that an employee of Timber's south had reported that two blond females left  
20 the establishment in a Jeep Cherokee. The employee observed that both females were intoxicated  
21 and asked them not to drive from the location. The officer spotted the Jeep Cherokee and began  
22 following the vehicle. The officer conducted a traffic stop on the vehicle for failing to maintain a  
23 lane of travel and suspicion of DUI. The officer made contact with the driver, Respondent, and  
24 her passenger, M. C. The officer could smell a strong odor of an alcoholic beverage coming from  
25 Respondent as she spoke. Respondent's eyes were watery and bloodshot, her movements were  
26 slow, and she was swaying slightly back and forth as she sat in the driver's seat. The officer had

27 <sup>1</sup> The officer's narrative states the arrest date as "February 28, 2008". However, all other areas of the police  
28 report and attachments indicate the arrest date as February 23, 2008.

1 Respondent perform field sobriety tests, then placed her under arrest for DUI. Later, Respondent  
2 told the officer that she had been with M. C. most of the evening, that she had been drinking  
3 Coors Light, and that the two of them had started drinking at Joker's and had ended up at Timber's  
4 south. Respondent was transported to the Bend PD, where she underwent a breath test.  
5 Respondent's test results showed that she had a blood alcohol level of 0.19%.

6 **THIRD CAUSE FOR DENIAL**

7 **(Conviction Related to the Consumption of Alcoholic Beverages)**

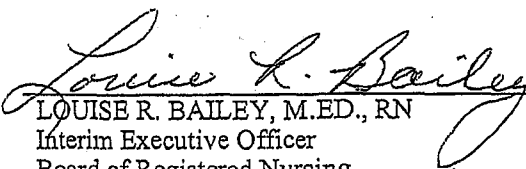
8 10. Respondent's application is subject to denial pursuant to Code sections 2736, 2761,  
9 subdivision (a), 2762, subdivision (c), and 480, subdivision (a)(3)(A), on the grounds of  
10 unprofessional conduct, in that on or about April 15, 2008, Respondent was convicted of a  
11 criminal offense involving the consumption of alcoholic beverages, as set forth in paragraph 8  
12 above.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
15 and that following the hearing, the Board of Registered Nursing issue a decision:

- 16 1. Denying the application of Brooke Elisabeth Latimer for a registered nurse license;  
17 2. Taking such other and further action as deemed necessary and proper.

18  
19 DATED: February 23, 2012

  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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**Exhibit B**

**Withdrawal of Request for Hearing**

**From:** Brooke Latimer <blatimer05@yahoo.com>  
**To:** "Anahita.Crawford@doj.ca.gov" <Anahita.Crawford@doj.ca.gov>  
**Date:** 8/31/2012 9:36 AM  
**Subject:** withdraw

Anahita,

I would like to withdraw from my appeal against the State Board of Nursing. I will not be attending the court date scheduled on 09/04/2012.

Thank you,

Brooke Latimer  
08/31/2012